

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IVO NABELEK,

Petitioner,

v.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. H-02-1406

ORDER

This habeas action has been dismissed as untimely and the petitioner's prior motion for a Certificate of Appealability has been denied by the United States Court of Appeals for the Fifth Circuit. The petitioner's subsequent motions have also been rejected in this action as well as in another habeas action regarding the same state court conviction. *See Nabelek v. Dretke*, No. H-01-4181 (S.D. Tex.). Moreover, the United States Court of Appeals for the Fifth Circuit has warned the petitioner that he will be sanctioned if he continues to file frivolous motions. *Nabelek v. Dretke*, No. 03-20837 (5th Cir. Feb. 13, 2006) (re: *Nabelek v. Dretke*, No. H-01-4181).

The petitioner has once again filed a notice of appeal in the present action and seeks permission to proceed as a pauper and a free copy of his records. The petitioner's repetitive claims are unsustainable and he is not entitled to continue to waste the resources of the courts. *See United States v. Harris*, 158 Fed. Appx. 561 (5th Cir. Dec 14, 2005) (Not selected for publication in the Federal Reporter). *See also Sistrunk v. United States*, 992F.2d 258 (10th Cir. 1993); *Deem v. Devasto*, 140 Fed. Appx. 574, 575 (5th Cir. 2005) ("[T]here is no constitutional mandate that a

habeas petitioner must be provided a free copy of his state-court criminal trial record.”), *citing Smith v. Beto*, 472 F.2d 164, 165 (5th Cir.1973).

The court **ADMONISHES** the petitioner that he will be subject to sanctions if he continues to file motions and pleadings which are clearly baseless or have been previously considered and rejected. *See Carter v. Telectron, Inc.*, 452 F.Supp. 944 (S.D. Tex. 1977).

The petitioner’s Application to Proceed In Forma Pauperis on Appeal (Docket Entry No. 180) is **DENIED** because the appeal has not been taken on good faith.

The petitioner’s request for a copy of his trial record (Docket Entry No. 181) is also **DENIED**.

SIGNED on this 17th day of July, 2006.


JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

